

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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Case No. CBA-1174-D

Case No. S-2503-A

Case No. S-2467-A

PETITIONS OF HOLTON ARMS SCHOOL

**RESOLUTION TO ADOPT HEARING EXAMINER'S REPORT AND
RECOMMENDATION AND TO REQUIRE AN ADDITIONAL TRAFFIC STUDY
ACCORDING TO REVISED CONDITION NO. 5**

(Resolution Adopted November 29, 2006)

(Effective Date of Resolution: January 5, 2007)

In an opinion dated March 23, 2004, the Board of Appeals approved modifications to the above captioned special exceptions, subject to conditions including the following:

5. Petitioner shall conduct a traffic study, as follows:

In May 2005, the Petitioner will submit a traffic study to the Board of Appeals and the Transportation Planning staff of the Maryland-National Capital Park & Planning Commission, after consultation with the Bradley Boulevard Citizens Association (BBCA), the Burning Tree Civic Association (BTCA), and the Office of the People's Counsel (OPC) as to the parameters of the traffic study. Copies of the study shall be provided to the BBBCA, BTCA, and the OPC. In accordance with Section 59-G-2.19(b), the traffic study will evaluate the traffic generated by the increased enrollment and by the After-Hours/Non-School activities in combination with all other approved activities on the special exception site, including any adverse effects on pedestrian and vehicular traffic safety, capacity, queuing and turning movements arising from the River Road, Holton-Arms and Royal Dominion intersection. Upon receipt of the analysis and comments of the Transportation Planning staff and other interested parties, the Board of Appeals may conduct a public hearing to

discuss the study and the analysis and comments of the Transportation Planning staff. Should the Board of Appeals determine that there has been an adverse traffic impact due to the modified uses, then the Board may, after a public hearing, amend the conditions of approval for the modified uses approved by this Opinion; however, every effort will be made to avoid any reduction in enrollment from the approved level of 665.

On June 29, 2005, Petitioners consultant, Gorove/Slade submitted a traffic study, which is Exhibit 81 in the record of the case. Transportation Planning staff of the Maryland National Capital Park and Planning Commission (MNCPPC) had approved of the parameters of the traffic study. At its January 10, 2006 Worksession, the Board of Appeals considered the traffic study, as presented by Martin Klauber, Peoples' Counsel, together with the concerns expressed by the Bradley Boulevard Citizens Association and the Burning Tree Civic Association, that the parameters of the study were too narrow. In a Resolution effective March 15, 2006, the Board of Appeals referred the matter to the Hearing Examiner to hold a public hearing to review the adequacy of the traffic study in satisfaction of Condition No. 5, and to address the following specific questions:

1. Transportation Planning staff's opinion as to whether the Gorove/Slade Traffic Analysis submitted by Holton Arms [Exhibit No. 81, Attachment 6] satisfies Condition No. 5 of the Board's March 23, 2004 opinion or whether the parameters of the Gorove/Slade Traffic Analysis must be revised to satisfy Condition No. 5;
2. More detailed findings to support its analysis of the Gorove Slade Traffic Analysis [Exhibit No. 81, Attachment 11];
3. Whether the Beech Tree/River Road and Burdette/River Road intersections should be added to the traffic analysis; and
4. As a general issue, do trip generation rates above the LATR thresholds constitute a non-inherent adverse effect, and at what point would additional mitigation be necessary?

The Hearing Examiner held a hearing on September 25, 2006, closed the record in the case on 3, 2006, and on November 9, 2006 issued a Report and Recommendation, stating that Condition No. 5 has been too narrowly interpreted by the Petitioner and MNCPPC Transportation Planning Staff. The Hearing Examiner recommends that the Board direct the Petitioner to "conduct another traffic study to determine whether traffic generated by Holton Arms has changed as a result of the modifications to enrollment and programs (including after/hours programs) so as to adversely affect the community. He further recommends that the study "should not be limited to the Holton intersection, but should extend to the surrounding intersections and roadways, to determine if increases in Holton enrollment and activities have produce traffic that adversely impacts them. It

should also not be limited to use of the CLV method approved for measuring road and intersectional capacity, but should include other methodologies, such as intersection delay analysis.” He recommends a revised Condition No. 5, as follows:

5. Petitioner shall conduct a traffic study, as follows:

No later than February 28, 2007, the Petitioner will submit a traffic study to the Board of Appeals and the Transportation Planning staff of the Maryland-National Capital Park & Planning Commission, after consultation with the Bradley Boulevard Citizens Association (BBCA), the Burning Tree Civic Association (BTCA), the Office of the People’s Counsel (OPC) and Transportation Planning staff as to the parameters of the traffic study. Copies of the study shall be provided to the BBCA, BTCA, and the OPC. In accordance with Section 59-G-2.19(b), the traffic study will evaluate the traffic generated by the increased enrollment and by the After-Hours/Non-School activities in combination with all other approved activities on the special exception site, including any adverse effects on pedestrian and vehicular traffic safety, capacity, queuing, delays and turning movements arising from Holton generated traffic at all affected intersections and roadways. Upon receipt of the analysis and comments of the Transportation Planning staff and other interested parties, the Board of Appeals may conduct a public hearing to discuss the study and the analysis and comments of the Transportation Planning staff. Should the Board of Appeals determine that there has been an adverse traffic impact due to the modified uses, then the Board may, after a public hearing, amend the conditions of approval for the modified uses approved in its March 23, 2004 Opinion and Resolution; however, every effort will be made to avoid any reduction in enrollment from the approved level of 665.

The subject property is Lot N-624, Parcel 2, and Part of Lots 6 and 7, Outlot A, Block B, Burning Tree Valley Subdivision, located at 7303 River Road, Bethesda, Maryland, in the R-90 and R-200 Zones.

The Board of Appeals considered the Hearing Examiner’s Report and Recommendation at its Worksession on November 29, 2006. The Board also had before it a request from Elsie L. Reid, Esquire and Megan Wallace, Esquire, on behalf of Holton Arms, to present oral argument on the Hearing Examiner’s Report and Recommendation. The Board finds the Report and Recommendation thorough and persuasive as to the need for an additional traffic study with revised parameters. However, the Board amends the recommended condition to require submission of the study by no later than **June 1, 2007**. Therefore, on a motion by Catherine G. Titus, seconded by Wendell M. Holloway, with Caryn L. Hines and

Donna L. Barron, Vice-Chair in agreement, and Allison Ishihara Fultz, Chair necessarily absent:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that Holton Arms School's request for oral argument on the Hearing Examiner's Report and Recommendation of November 9, 2006 is denied; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that the Board adopts the Report and Recommendation and directs Holton Arms to conduct another traffic study as described therein, and adopts the Hearing Examiner's revised Condition No. 5 amended to reflect that the new traffic study shall be submitted no later than June 1, 2007.

Donna L. Barron
Vice-Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 5th day of January, 2007.

Katherine Freeman
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure.

